REMARKS/ARGUMENTS

Claims 37-44 are pending in this Application. The Office Action mailed on September 22, 2005, rejected claims 37-44 under 35 U.S.C. § 103(a). Applicants respectfully address the basis for the Examiner's rejections below.

Claims 37-44 are rejected under 35 U.S.C. § 103 as being unpatentable over Malloy, et al., in view of Schilli, et al.,

Applicants respectfully submit that claims 37-44 are not obvious over United States Patent Number 5,577,947 to Malloy, et al., ("Malloy") in view of United States Patent Number 5,552,869 to Schilli, et al., ("Schilli") and are, therefore, allowable under 35 U.S.C. § 103(a) for the reasons stated below.

In order to establish a prima facie case of obviousness, three criteria must be met: (1) the prior art or combined references must teach or suggest all the claim limitations, (2) there must be a reasonable expectation of success, and (3) there must be some suggestion or motivation in the prior art to modify the reference or to combine reference teachings as proposed. MPEP § 2143; *In re Vacek*, 947 F.2d 488 (Fed. Cir. 1991). "The prior art must suggest the desirability of the claimed invention." MPEP § 2143.01. Both the invention and the prior art references must be considered as a whole. MPEP § 2141.02. Applicant respectfully submits that claims 37-44 are not obvious over the cited art and are, therefore, allowable under 35 U.S.C. § 103(a) for the reasons stated below.

The cited art does not teach or suggest all the claim elements.

Applicants respectfully submit that the cited references do not disclose, teach or suggest all the claim elements of claims 37-44 and as such obviousness cannot be found. MPEP § 2143.03.

Malloy does not disclose, teach or suggest all the claim elements of claims 37-44. Malloy relates to making a balloon, having a printed image thereon, a scent corresponding to the image, by adding fragrant oil to the printing ink prior to printing the images on the balloons. In Malloy, the printing ink is prepared in the "normal and conventional manner" known to those

skilled in the art. After the ink is prepared, the fragrant oil for the balloon is added to and mixed with the printing ink. Malloy also states that it is not necessary to add other chemicals to induce dispersement of the fragrant oil throughout the ink. The fragrant oil is merely added directly to the printing ink under agitation and mixed. The scented ink is applied through flexographic printing that well-known in the art.

The invention of Mallory does not include applying a scented gel carrier to a substrate to apply a scent to an article. Mallory does not apply a gel carrier, merely a fragrant oil added directly to the printing ink. The addition of the oil directly to the ink does not provide a mechanism to retain the scent. In fact, Mallory states that "[a]fter the drying process is completed, the rolls of printed metallized nylon sheeting are wrapped in polyethylene film or shrink wrap to create an airtight seal around the roll. In this manner, the sheeting rolls maintain their scent while waiting to be used to make balloons" (cl. 4 ll. 66-67 and cl. 5 ll. 1-3). In stark contrast, the present invention includes a gel having a scent and a matrix that may be seasoned to form a scented gel, wherein the scented gel maintains its scent following one or more washes in cold water and mild detergent. Therefore, the printing ink of Mallory does not include each and every limitation of the present invention.

Schilli does not disclose, teach or suggest all the claim elements of claims 37-44. Schilli relates to an apparatus for continuously removing excess carrier liquid from a photoreceptor. The image drying means contacts the photoreceptor and the surface of the image drying means heats to no more than 5 degree C. below the flashpoint of the carrier liquid. Schilli does not teach applying a scented ink to a substrate at all, merely a method and apparatus for drying liquid toners.

Accordingly, claim 37-44 are not anticipated by, or rendered obvious from either Mallory or Schilli or their combination as they do not disclose, teach or suggest all the elements of claims.

There is no teaching or suggestion in the prior art to modify the reference as proposed.

Obviousness can only be found where there is some teaching, suggestion, or motivation to modify a reference in the manner proposed, found either in the prior art itself or in the knowledge generally available in the art. See MPEP § 2143.01; *In re Fine*, 837 F.2d 1071 (Fed.

Cir. 1988); *In re Jones*, 958 F.2d 347 (Fed. Cir. 1992). Further, the mere fact that references can be combined or modified does not necessarily make the combination obvious unless the prior art suggests the combination. See MPEP § 2143.01; *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). Again, simply stating that a claimed modification of the prior art would have been "obvious to a person of ordinary skill in the art at the time the invention was made" because all aspects of the claimed invention were individually known in the art is not enough to establish a prima facie case of obviousness without some objective reason to combine the teachings. MPEP § 2143.01; *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

Neither Malloy, nor Schilli disclose, teach, suggest, or modify a reference in the manner proposed. The references do not address the same problem. Malloy relates to making a balloon, having a printed image thereon with a scent corresponding to the image. Schilli relates to an apparatus for continuously removing excess carrier liquid from a photoreceptor for drying liquid toners. There is no suggestion in either to modify or combine a reference relating to making a balloon having a printed image with a scent and the reference relating to photocopying and some forms of laser printing in the manner proposed.

Applicants respectfully submit that there is no teaching, suggestion or motivation found in Malloy, Schilli or knowledge generally available in the art to combine them in such a way to cure the deficiencies of these references and render the claims unpatentable under 35 U.S.C. § 103(a).

There is no expectation of success.

In order to establish a prima facie case of obviousness based on a combination of references, there must be a reasonable expectation of success. For the reasons stated above, applicant respectfully submits that a person of ordinary skill in the art would have no reasonable expectation of success to modify or combine Malloy and Schilli.

The references do not address the same problem. Malloy addresses the application of a scent to a balloon, while Schilli addresses photocopying and some forms of laser printing. There is nothing in either reference to support any reasonable expectation of success in the combination of a reference addressing the application of a scent to a rubber product and a reference addressing the drying of liquid toners.

Applicants submit claim 37-44 are not anticipated by, or rendered obvious from either Mallory or Schilli or their combination as the combined references do not teach or suggest all the claim limitations, there is no suggestion or motivation to modify or combine the references as proposed and there is no expectation of success. Accordingly, Applicants respectfully submit that claim 37-44, are not obvious over Mallory or Schilli and are, therefore, allowable under 35 U.S.C. § 103(a). Applicants respectfully request that the rejection of claim 33-44 be withdrawn.

Conclusion

In light of the remarks and arguments presented above, Applicants respectfully submit that the claims in the Application are in condition for allowance. Favorable consideration and allowance of the pending claims 37-44 are therefore respectfully requested.

Applicants believe no fees are due at this time. If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

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Respectfully submitted,

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